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14 NOV 2006

In re Application of :  
GUPTA, Ajay :  
Application No.: 10/560,150 :  
PCT No.: PCT/US03/04941 : DECISION ON  
Int. Filing Date: 18 February 2003 :  
Priority Date: 26 July 2002 : PETITION UNDER  
Attorney Docket No.: 60274-098 :  
For: SORPTION CONCENTRATOR WITH : 37 CFR 1.47(b)  
ELECTRICALLY HEATED :  
DESORPTION REGENERATION :

This is a decision on applicant's "Declaration of Michael G. Shariff," filed in the United States Patent and Trademark Office (USPTO) on 22 August 2006. Applicant's submission has been treated as a Petition Under 37 C.F.R. §1.47(b).

**BACKGROUND**

On 18 February 2003, applicant filed international application PCT/US03/04941, claiming a priority date of 26 July 2002. A copy of the international application was transmitted to the Office on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 January 2005.

On 09 September 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, a petition to revive under 37 CFR 1.137(b).

On 23 January 2006, the Office mailed Decision On Petition, granting applicant's petition to revive the above application.

On 22 March 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 22 August 2006, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a three month extension of time.

**DISCUSSION**

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR

1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), and (6) have been met. (1) The \$200 petition fee will be charged to the deposit account no. 08-2789, as authorized. (3) Applicant states the last known mailing address of Mr. Ajay Gupta as 28 Nancy Place, Berkeley Heights, NJ 07922. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Gupta has refused to execute the declaration, but have not provided proof that Mr. Gupta was presented with a complete copy of the application papers and has refused to sign. The letter of Ms. Edwards does not indicate that the application was included with the papers forwarded to the inventor. Copies of documentary evidence indicating that the inventor received a complete copy of the application papers should be included. Further, as Mr. Gupta's phone line was disconnected and no signature was obtained on the package sent to Mr. Gupta, it is not clear that the address to which the package was sent is current. Applicant should verify that the address to which the package was sent is current and otherwise attempt to locate a current address. MPEP 409.03(d).

Item (4) has not been satisfied. The declaration is not executed by the 37 CFR 1.47(b) applicant as set out in 37 CFR 1.497(b).

Item (5) has not been met. Applicant has not provided evidence of proprietary interest in the application. Applicant has not provided an assignment or a work agreement in which the inventor agreed to assign the invention to applicant.

### CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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